

ENVIRONMENTAL PROTECTION COMMISSION [567]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 459.103 and 2005 Iowa Code Supplement section 459A.104, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 65, "Animal Feeding Operations," Iowa Administrative Code.

For confinement feeding operations or open feedlot operations that are required to submit manure/nutrient management plans, the proposed amendments would limit the application of liquid manure, process wastewater or settled open feedlot effluent to 100 pounds of available nitrogen per acre to land that is planted to soybeans or that will be planted to soybeans the next crop season. Effective five years after the proposed amendments become effective, the application of liquid manure, process wastewater or settled open feedlot effluent to such land would be prohibited unless the Commission determines that available scientific evidence justifies alternative action.

Any interested person may make written suggestions or comments on the proposed amendments on or before February 8, 2007. Written comments should be directed to Gene Tinker, Iowa Department of Natural Resources, Wallace State Office Building, 502 E. 9th St., Des Moines, Iowa 50319-0034; fax (515)281-8895; email gene.tinker@dnr.state.ia.us.

Also, there will be public hearings as follows, at which time persons may present their views either orally or in writing:

_____February 6, 2007 5:00 p.m. Coralville Public Library

1401 Fifth Street
Coralville, Iowa

February 7, 2007 1:00 p.m. Wallace State Office Building
5th Floor Conference Room
502 E. 9th Street
Des Moines, Iowa

February 8, 2007 10:00 a.m. Carroll County Courthouse
Courthouse Meeting Room
114 E. 6th Street (HWY 30)
Carroll, Iowa

At the hearings people will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code sections 459.103 and 459.312, and 2005 Iowa Code Supplement sections 459A.104 and 459A.208.

The following amendments are proposed.

ITEM 1. Amend paragraph 65.17(18)“c” as follows:

c. Nitrogen-based application rates shall be based on the optimum crop yields as determined in 65.17(6) and crop nitrogen usage rate factor values in Table 4 at the end of this chapter or other credible sources. However, subject to the prohibition in 65.17(20), liquid manure applied to land that is currently planted to soybeans or to land where the current crop has been harvested that will be planted to soybeans the next crop season shall not exceed 100 pounds of available nitrogen per acre. Further, the 100 pounds per acre application limitation in the above sentence

does not apply on or after June 1 of each year; in that event 65.17(6) and Table 4 would apply as provided in the first sentence of this paragraph.

ITEM 2. Amend rule 65.17(459) by adopting the following **new** subrule:

65.17(20) Liquid manure on land planted to soybeans. Effective [five years after effective date of amendment], the owner of a confinement feeding operation who is required to submit a manure management plan shall not apply liquid manure to land that is currently planted to soybeans or to land where the current crop has been harvested that will be planted to soybeans the next crop season. Not later than six months prior to the effective date of the ban **in this subrule** the commission shall review the available scientific evidence and determine whether any further or alternative action is necessary.

ITEM 3. Amend subparagraph 65.112(8)“a”(2) as follows:

(2) Calculations necessary to determine the land area required for the application of manure, process wastewater and open feedlot effluent from an open feedlot operation based on nitrogen or phosphorus use levels (as determined by phosphorus index) in order to obtain optimum crop yields according to a crop schedule specified in the nutrient management plan, and according to requirements specified in 65.17(4). The 100 pounds of available nitrogen per acre restriction specified in 65.17(18)“c” (applicable to open feedlot operations because of requirements in 65.17(4)) pertaining to liquid manure applied to land currently planted to soybeans or to land where a soybean crop is planned applies only to liquid manure, process wastewater or settled open feedlot effluent.

ITEM 4. Amend rule 567--65.112(459A) by adopting the following **new** subrule:

65.112(11) Settled open feedlot effluent on land planted to soybeans. Effective [five years after effective date of amendment], the owner of a open feedlot operation who is required to

submit a nutrient management plan shall not apply liquid manure, process wastewater or settled open feedlot effluent to land that is currently planted to soybeans or to land where the current crop has been harvested that will be planted to soybeans the next crop season. Not later than six months prior to the effective date of the ban in this subrule the commission shall review the available scientific evidence and determine whether any further or alternative action is necessary.

Date

Jeffrey R. Vonk, Director